

Sorry herAs the Court has not yet issued a claim construction order, Blue Spike is prejudiced in its reduction of asserted claims. The Court's ruling on claim construction will have direct bearing on the strength of terms Blue Spike will assert moving forward. The parties are also dependent on the claim construction order to prepare their expert reports. The Court's schedule will not be affected by the proposed modification, and the Defendants will not be prejudiced. The proposed modification will allow all parties more time and a greater opportunity to more thoroughly review and prepare their expert reports within the Court's discovery and case dispositive motion deadlines.

Moreover, none of the remaining Defendants, save one, have provided dates for Blue Spike LLC to conduct its 30(b)(1) depositions relating to the alleged prior art and the accused products. The substance of such depositions are a necessary element in the creation and production of Plaintiff's expert reports.

For the above stated reasons, Blue Spike, LLC respectfully requests the Court modify the scheduling order as shown above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Federal Rule of Civil Procedure 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email.

/s/ Randall T. Garteiser

CERTIFICATE OF CONFERENCE

We certify that on behalf of Blue Spike, LLC, we have met and conferred with counsel for Defendants between October 13 and October 15, 2014 regarding the requested relief. Counsel for Last.fm and CBS Interactive, Inc. represented by Andrew Perito; Cognitec Systems Corp. and Cognitec Systems GmbH represented by Dwayne Goetzel; Irdeto B.V. and Irdeto USA, Inc. represented by Andrew Valentine; and Futronic Technology Co. Ltd, and Fulcrum Biometrics represented by Walter Lackey are unopposed to the proposed modification. Counsel for Defendants Audible Magic Corp. represented by Alyssa Caridis; Civolution B.V. and Civolution USA, Inc. represented by Michael Molano; Facebook, Inc. represented by Janna Fischer; MorphoTrak, Inc., Safran USA, Inc., MorphoTrust USA, Inc. and L-Identity Solutions, Inc. represented by Rachel Chan; Viggle Inc. represented by Jordan Sigale; and SMRTV, Inc. and The Nielsen Company, LLC represented by Bryan Kohm are opposed to requested modification of the scheduling order. Defendant Contributor Corp. represented by Tom Horgan is unopposed to the modification of the October 15 deadline to October 27 but is opposed to modification of the remaining deadlines. As of October 15, 2014 7:42 pm CST, Shazam Entertainment Ltd. does not have a position on the requested relief.

/s/Randall T. Garteiser

/s/Christopher Honea

/s/Peter S. Brasher